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Bruce P. Beausejour

General Counsel - Massachusetts

October 12, 1999

Joan Foster Evans, Esquire, Hearing Officer

Department of Telecommunications & Energy

Commonwealth of Massachusetts

One South Station, 2nd Fl.

Boston, Massachusetts 02110

Re: D. P. U. 96-73/74 - NYNEX/Teleport Arbitration

D. P. U. 96-75 - NYNEX/Brooks Fiber Arbitration

D. P. U. 96-80/81 - NYNEX/AT&T Arbitration

D. P. U. 96-83 - NYNEX/MCI Arbitration

D. P. U. 96-94 - NYNEX/Sprint Arbitration

Dear Ms Evans:

Bell Atlantic-Massachusetts ("BA-MA") is writing in response to the Notice issued on October 7, 1999, in which the Department seeks comments on the confidential treatment of carrier-specific performance reports which BA-MA files monthly with the Department.

BA-MA has properly filed the reports with the Department on a confidential basis because they contain carrier-specific information that is confidential and competitively sensitive commercial information of the carriers, which should not be disclosed on the public record. Specifically, the reports contain data concerning order volumes for resold services, interconnection trunks, and unbundled network elements for named carriers that would, if released, provide competitors of the carriers with valuable information regarding each individual carrier's marketing plans, entry strategy, and changes in market share. Such commercially confidential and competitively sensitive information is precisely the type of data that G.L. c. 25, § 5D authorizes the Department to protect from public disclosure. Indeed, the Department has recognized the potential harm of public disclosure of such competitive data and has traditionally provided for its protection from disclosure. See e.g., D.T.E. 98-38, Hearing Officer Memorandum of June 11, 1998, confidential treatment given to NXX code utilization data provided by carriers. The Department should extend the same treatment here for any carrier that wishes to protect its own data.

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In its Notice, the Department also requested that parties address whether the carrier-specific reports could be provided on the public record with the name of each carrier redacted. BA-MA does not believe that this would be sufficient to protect the data. A carrier with knowledge of its own operations and of the marketplace in Massachusetts will potentially still be able to extract useful information concerning specific competitors. In this market, the Department should not place any carrier in the position of having critical information released to competitors.

Although the issue raised in the Department's Notice concerns the competitively sensitive information of BA-MA's competitors, how the Department deals with the matter is also of critical importance to BA-MA. In order to make informed decisions, the Department needs all relevant information, including in particular cases, data that may be highly confidential. However, the Department must ensure – as it has in the past – that carriers' interests in not divulging sensitive commercial and business information to their competitors is adequately protected. The Department has ample authority under G.L. c. 25, § 5D to provide that protection, and in today's competitive telecommunications markets, the Department must be particularly sensitive to the potential competitive harms that can result from public disclosure.

Very truly yours,

Bruce P. Beausejour

cc: Mary L. Cottrell, Secretary

Michael Isenberg, Esq.

Attached Arbitration Joint Service List